

## **PRETRIAL AND TRIAL PROCEDURE**

Before Judge Robert F. Kelly  
United States District Court  
Eastern District of Pennsylvania  
601 Market Street, Rm. 11613  
Philadelphia, PA 19106

1. Counsel shall be familiar with the provisions of Fed. R. Civ. P. 16.
2. Discovery shall be conducted in accordance with the Federal Rules of Civil Procedure and the Local Rules for the Eastern District of Pennsylvania. The parties shall take discovery in a prompt and diligent manner. Deadlines will be enforced and neither unnecessary discovery nor obstructionism will be tolerated. Discovery enforcement or relief should be sought promptly by motion only. Telephone inquiries relating to scheduling should be directed to the Court deputy clerk.
3. A specific trial date will be established only after just cause is shown. Otherwise, all cases shall be listed in the trial pool and counsel should be aware that any case in the trial pool will be deemed ready to proceed to trial upon 24 hours telephone notice. The Court will make every effort to commence trials as listed in the pool, but this cannot be guaranteed due to the Court's scheduling needs. Once a case has been listed in the trial pool, counsel shall immediately notify the Court by letter of potential scheduling conflicts.
4. Pretrial memoranda required to be delivered to the Court as per Court order shall include the following:
  - a. All things as required in Local Rule of Civil Procedure 16.1, if applicable.
  - b. A list of all exhibits pre-numbered and pre-exchanged among all counsel. If exhibits are numerous, they should be suitably tabbed to facilitate ease and speed in locating an exhibit.
  - c. In all jury cases, proposed points for charge and in all non-jury cases, proposed findings of fact and conclusions of law. Counsel have the right to file supplemental points, findings and conclusions upon the close of testimony (counsel is reminded that the originals of these documents should be filed in the Clerk's Office, Rm. 2609, and that the Court should be provided a copy).
  - d. A statement of any anticipated legal issues on which the Court will be required to rule together with counsel's single best authority (case citation, Rule of Civil Procedure, Rule of Evidence, Statute, etc.).
  - e. All stipulations of counsel and an itemized list of any admissions to be read into evidence.

If a ruling on a dispositive motion (i.e., a motion for summary judgment) is pending at the time the parties' pretrial memoranda are due, the parties may defer filing their pretrial memoranda until five (5) days after a decision has been rendered on such pending motion by the Court.

5. If a party desires to file a reply brief in order to address unanticipated argument raised by opposing counsel to a motion, the party must file a motion for leave to do so and attach the reply brief as an exhibit to the motion.
6. Court sessions will commence daily at 9:30 a.m. and continue until 12:30 p.m. with a short mid-morning break. Court will reconvene at 1:30 p.m. and continue until 4:45 p.m. (unless a juror from one of the outlying counties has a transportation schedule to meet) with a short mid-afternoon break. The Court will adhere to this schedule and counsel must fit all witnesses into that time frame and not seek exceptions.
7. Counsel has the responsibility to have all witnesses available in Court as scheduled. Failure to do so may result in sanctions.
8. All videotape recordings shall be conducted with an acute sensitivity that the videotape will be shown to a jury. Skillful organization of the testimony, elimination of unnecessary objections and conservation of time are strongly urged.
9. Counsel may conduct examination of witnesses from counsel table or from the lectern. Counsel is reminded that the Courtroom is equipped with an electronic sound recording system. Therefore, counsel should always be near a microphone when speaking.
10. Opening statements shall be brief and outlines only (not argument) of the evidence counsel intends to present.
11. Summations shall not exceed thirty minutes except upon special exception allowed by the Court in a complex case. Rebuttal argument by plaintiff shall ordinarily not exceed five minutes and shall be confined strictly to a response to unanticipated argument by opposing counsel. Re-argument will not be permitted.
12. Except for letters of transmittal that accompany documents that are required to be sent or filed at the Courthouse, counsel should not include the Court as an addressee or as a party designated to receive copies of letters among and between counsel, except in the following instances:
  - a. Where the Court specifically invites counsel to advise the Court of some matter by letter; or
  - b. When the cause of counsel's participation in the case is expected to be

affected by a personal matter concerning counsel, a party, a witness, or counsel's immediate family, such as a medical problem, vacation plans, or other similar personal problems or questions; or

c. To confirm or advise the Court that a case has been settled, dismissed or otherwise finally disposed of.

All other communications with the Court concerning cases before the Court should be by the filing of pleadings, motions, applications, briefs, legal memoranda, or other similar filings provided for in the Federal Rules of Civil or Criminal Procedure or our Local Rules of Civil or Criminal Procedure. Letters and courtesy copies of court filings may be mailed or hand-delivered to the drop box outside the Judge's chambers. It is the policy of the Court not to make its fax number available.